IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.358 OF 2006
WITH
CIVIL APPLICATION NO.443 OF 2006

Arjunchandra Swarupchandra Chauhan. ..Appellant.

V/s.

Gokul Kisan Gaikwad & Anr. ..Respondents.

Mr.M.P.Vashi for appellant.

Mr.S.A.Sawant with Himanshu Kode for respondents.

CORAM: A.M.KHANWILKAR,J
DATE : JUNE 12, 2006.

P.C. :

1. Heard counsel for the parties.

2. I have no hesitation in affirming the view taken by the Court below on the issue of prima facie case. The view taken by the Court below about the challenge pressed into service by the appellant being unacceptable is a possible view. If it is so, no case for interference is made out. However, in so far as the apprehension of the appellant that the respondents will create third party interest in the suit property , there is no basis-as the counsel for the respondents submits that after the execution of the registered documents the respondents have taken over possession of the premises and is presently

running school. Besides, the respondents have no intention to create third party interest. That assurance given by the respondents through counsel is accepted. Suffice it to observe that at this interlocutory stage, no interference with the conclusion reached by the Court below in rejecting the temporary injunction application is warranted.

3. While parting, having regard to the nature of controversy involved, it is appropriate if the trial Court is well advised to expedite the hearing of the suit and finally dispose of the same preferably by end of March, 2007. This observation is made on the assurance given by the parties through their counsel before this court that they shall extend necessary co-operation for early disposal of the suit. That assurance is accepted.

4. It is made clear that suit will have to be decided on its own merits in accordance with the law uninfluenced by the impugned order or the present order. It will be open to the appellant to apply to the Trial Court, requiring the respondents to maintain separate accounts. That aspect will be considered on its own merits.

5. Appeal as well as civil application disposed of on the above terms.